

PREVAILED

Roll Call No. _____

FAILED

Ayes _____

WITHDRAWN

Noes _____

RULED OUT OF ORDER

HOUSE MOTION _____

MR. SPEAKER:

I move that Senate Bill 136 be amended to read as follows:

- 1 Page 1, between the enacting clause and line 1, begin a new
- 2 paragraph and insert:
- 3 "SECTION 1. IC 4-13-1-4, AS AMENDED BY P.L.53-2001,
- 4 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
- 5 JULY 1, 2002]: Sec. 4. The department shall, subject to this chapter,
- 6 do the following:
- 7 (1) Execute and administer all appropriations as provided by law,
- 8 and execute and administer all provisions of law that impose
- 9 duties and functions upon the executive department of
- 10 government, including executive investigation of state agencies
- 11 supported by appropriations and the assembly of all required data
- 12 and information for the use of the executive department and the
- 13 legislative department.
- 14 (2) Supervise and regulate the making of contracts by state
- 15 agencies.
- 16 (3) Perform the property management functions required by
- 17 IC 4-20.5-6.
- 18 (4) Assign office space and storage space for state agencies in the
- 19 manner provided by IC 4-20.5-5.
- 20 (5) Maintain and operate the following for state agencies:
- 21 (A) Central duplicating.
- 22 (B) Printing.
- 23 (C) Machine tabulating.
- 24 (D) Mailing services.

1 (E) Centrally available supplemental personnel and other
2 essential supporting services.

3 (F) Information services.

4 (G) Telecommunication services.

5 The department may require state agencies to use these general
6 services in the interests of economy and efficiency. The general
7 services rotary fund, the telephone rotary fund, and the data
8 processing rotary fund are established through which these
9 services may be rendered to state agencies. The budget agency
10 shall determine the amount for each rotary fund.

11 (6) Control and supervise the acquisition, operation, maintenance,
12 and replacement of state owned vehicles by all state agencies. The
13 department may establish and operate, in the interest of economy
14 and efficiency, a motor vehicle pool, and may finance the pool by
15 a rotary fund. The budget agency shall determine the amount to
16 be deposited in the rotary fund.

17 (7) Promulgate and enforce rules relative to the travel of officers
18 and employees of all state agencies when engaged in the
19 performance of state business. These rules may allow
20 reimbursement for travel expenses by any of the following
21 methods:

22 (A) Per diem.

23 (B) For expenses necessarily and actually incurred.

24 (C) Any combination of the methods in clauses (A) and (B).

25 The rules must require the approval of the travel by the
26 commissioner and the head of the officer's or employee's
27 department prior to payment.

28 (8) Administer IC 4-13.6.

29 (9) Prescribe the amount and form of certified checks, deposits,
30 or bonds to be submitted in connection with bids and contracts
31 when not otherwise provided for by law.

32 (10) Rent out, with the approval of the governor, any state
33 property, real or personal:

34 (A) not needed for public use; or

35 (B) for the purpose of providing services to the state or
36 employees of the state;

37 the rental of which is not otherwise provided for or prohibited by
38 law. Property may not be rented out under this subdivision for a
39 term exceeding ten (10) years at a time. However, if property is
40 rented out for a term of more than four (4) years, the
41 commissioner must make a written determination stating the
42 reasons that it is in the best interests of the state to rent property
43 for the longer term. This subdivision does not include the power
44 to grant or issue permits or leases to explore for or take coal, sand,
45 gravel, stone, gas, oil, or other minerals or substances from or
46 under the bed of any of the navigable waters of the state or other

lands owned by the state.

(11) Have charge of all central storerooms, supply rooms, and warehouses established and operated by the state and serving more than one (1) agency.

(12) Enter into contracts and issue orders for printing as provided by IC 4-13-4.1.

(13) Sell or dispose of surplus property under IC 5-22-22, or if advantageous, to exchange or trade in the surplus property toward the purchase of other supplies, materials, or equipment, and to make proper adjustments in the accounts and inventory pertaining to the state agencies concerned.

(14) With respect to power, heating, and lighting plants owned, operated, or maintained by any state agency:

(A) inspect;

(B) regulate their operation; and

(C) recommend improvements to those plants to promote economical and efficient operation.

(15) Administer the department of correction ombudsman bureau established by IC 4-13-1.2-3 and determine salaries and other personnel matters of the bureau.

SECTION 2. IC 4-13-1.2 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 1.2. Department of Correction Ombudsman Bureau

Sec. 1. As used in this chapter, "bureau" refers to the department of correction ombudsman bureau established by section 3 of this chapter. The term includes individuals approved to act in the capacity of ombudsmen by the department of correction ombudsman bureau.

Sec. 2. As used in this chapter, "ombudsman" means an employee of the bureau or an individual approved by the bureau to investigate and resolve complaints that the department of correction endangered the health and safety of any person or violated specific laws, rules, or written policies.

Sec. 3. The department of correction ombudsman bureau is established as a separate bureau within the Indiana department of administration.

Sec. 4. (a) The governor shall appoint a director of the bureau. The governor shall appoint a successor director within thirty (30) days after a vacancy occurs in the position of director. The director serves at the pleasure of the governor.

(b) The director may employ technical experts and other employees to carry out the purposes of this chapter. However, the director may not hire an individual to serve as an ombudsman who has been employed by the department of correction during the preceding year.

Sec. 5. (a) An ombudsman may receive, investigate, and attempt

to resolve complaints asserting that the department of correction:

- (1) violated a specific law, rule, or department written policy;
- or
- (2) endangered the health or safety of any person.

However, an ombudsman shall not investigate a complaint from an employee of the department of correction that relates to the employee's employment relationship with the department of correction.

(b) At the conclusion of an investigation of a complaint, the investigating ombudsman shall report the ombudsman's findings to the complainant.

(c) If the ombudsman who receives a complaint does not investigate the complaint, the ombudsman shall notify the complainant of the decision not to investigate and the reasons for the decision.

Sec. 6. (a) An ombudsman shall be given:

- (1) appropriate access to the records of an offender who files a complaint under this chapter; and
- (2) immediate access to any correctional facility administered or supervised by the department of correction.

(b) A state or local governmental agency or entity that has records that are relevant to a complaint or an investigation conducted by the ombudsman shall provide the ombudsman with access to the records.

(c) A person is immune from:

- (1) civil or criminal liability; and
- (2) actions taken under a professional disciplinary procedure against an employee of the department of correction;

for the release or disclosure of records to an ombudsman under this chapter.

Sec. 7. (a) The director of the bureau shall do the following:

- (1) Establish procedures to receive and investigate complaints.
- (2) Establish access controls for all information maintained by the bureau.
- (3) Except as is necessary to investigate and resolve a complaint, ensure that the identity of a complainant will not be disclosed by any employee of the bureau without:

- (A) the complainant's written consent; or
- (B) a court order.

(b) The correspondence and communication between an ombudsman and any person concerning a complaint is a privileged communication.

Sec. 8. The bureau may adopt rules under IC 4-22-2 necessary to carry out this chapter.

Sec. 9. An ombudsman is not civilly liable for the good faith performance of official duties.

Sec. 10. (a) The director of the bureau shall prepare a report

each year on the operations of the bureau.

(b) A copy of the report shall be provided to the following:

- (1) The governor.
- (2) The legislative council.
- (3) The Indiana department of administration.
- (4) The department of correction.

Sec. 11. A person who:

- (1) intentionally interferes with or prevents the completion of the work of an ombudsman;
- (2) knowingly offers compensation to an ombudsman in an effort to affect the outcome of an investigation or a potential investigation;
- (3) knowingly or intentionally retaliates against an offender or another person who provides information to an ombudsman; or
- (4) makes threats because of an investigation or potential investigation against an ombudsman, a person who has filed a complaint, or a person who provides information to an ombudsman;

commits a Class A misdemeanor.

Sec. 12. The Indiana department of administration shall provide and maintain office space for the bureau."

Page 3, between lines 18 and 19, begin a new paragraph and insert:
"SECTION 4. IC 11-8-2-3 IS AMENDED TO READ AS
FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 3. (a) The board shall:

- (1) adopt rules for the conduct of its own business;
- (2) approve or disapprove, before adoption, any rule to be adopted by the department under IC 4-22-2;
- (3) approve or disapprove, before implementation, any resolution, ~~or~~ directive, **or other statement** of the department, ~~relating~~ **including the commissioner, regardless of its name or designation, that relates** to departmental organization or policy, **including general internal organization, policies, standards, or procedures applicable to one (1) or more facilities, programs, or categories of persons under the jurisdiction of the department, employees, or contractors;** and
- (4) keep records of all its official actions and make them accessible according to law.

(b) The board may:

- (1) appoint temporary advisory committees for any purpose;
- (2) visit and inspect, without notice, any facility or program of the department, either individually or collectively, to examine the affairs and condition of the department; and
- (3) exercise any other power reasonably necessary in discharging its duties and powers.

(c) The board has no direct administrative or executive powers other than those granted by this section.

(d) For purposes of IC 4-22-2, the term "rule" as used in subsection (a)(1) relates solely to internal policy, organization, and procedure not having the force of law.

(e) This section shall be liberally construed for conduct of the board after June 30, 2002, to implement the intent of the general assembly, as first stated in the commentary to the proposed final draft of the correctional code published by the correctional code commission in October 1977, to place policy authority in a seven (7) member board of correction rather than a single department head.

SECTION 5. IC 11-8-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: Sec. 2. (a) The department may, under IC 4-22-2, classify as confidential the following personal information maintained on a person who has been committed to the department or who has received correctional services from the department:

(1) Medical, psychiatric, or psychological data or opinion which might adversely affect that person's emotional well-being.

(2) Information relating to a pending investigation of alleged criminal activity or other misconduct.

(3) Information which, if disclosed, might result in physical harm to that person or other persons.

(4) Sources of information obtained only upon a promise of confidentiality.

(5) Information required by law or promulgated rule to be maintained as confidential.

(b) The department may deny the person about whom the information pertains and other persons access to information classified as confidential under subsection (a). However, confidential information shall be disclosed:

(1) upon the order of a court;

(2) to employees of the department who need the information in the performance of their lawful duties;

(3) to other agencies in accord with IC 4-1-6-2(m) and IC 4-1-6-8.5;

(4) to the governor or ~~his~~ **the governor's** designee;

(5) for research purposes in accord with IC 4-1-6-8.6(b); ~~or~~

(6) to the department of correction ombudsman bureau in accordance with IC 11-11-1.5; or

(7) if the commissioner determines there exists a compelling public interest as defined in IC 4-1-6-1, for disclosure which overrides the interest to be served by nondisclosure.

(c) The department shall disclose information classified as confidential under subsection (a)(1) to a physician, psychiatrist, or psychologist designated in writing by the person about whom the information pertains.

SECTION 6. IC 11-11-1.5 IS ADDED TO THE INDIANA CODE

AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]:

Chapter 1.5. Department of Correction Ombudsman Bureau

Sec. 1. As used in this chapter, "bureau" refers to the department of correction ombudsman bureau established within the Indiana department of administration by IC 4-13-1.2-3. The term includes individuals who are approved by the department of correction ombudsman bureau to act as ombudsmen.

Sec. 2. As used in this chapter, "ombudsman" has the meaning set forth in IC 4-13-1.2-2.

Sec. 3. The department shall provide an ombudsman with:

- (1) appropriate access to the records of an offender who files a complaint under IC 4-13-1.2-5; and
- (2) immediate access to any correctional facility administered or supervised by the department of correction.

Sec. 4. The Indiana department of administration shall provide and maintain office space for the bureau.

Sec. 5. An ombudsman shall not investigate a complaint from an employee of the department that relates to the employee's employment relationship with the department.

SECTION 7. IC 34-30-2-2.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 2.3. IC 4-13-1.2-6 (Concerning a person who releases information to a department of correction ombudsman).**

SECTION 8. IC 34-30-2-2.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2002]: **Sec. 2.4. IC 4-13-1.2-9 (Concerning a department of correction ombudsman).**

SECTION 9. [EFFECTIVE JULY 1, 2002] (a) A bylaw adopted by the board of correction before October 1, 1980, (the date on which the enactment of IC 11-8-2-3 became effective) is void.

(b) IC 11-8-2-3, as amended by this act, applies only to resolutions, directives, and other statements of the department of correction, including the commissioner, adopted or amended after June 30, 2002. However, the board of correction may review and make recommendations for change for any resolution, directive, or

1 **other statement of the department of correction, including the**
2 **commissioner, relating to departmental organization or policy."**

3 Renumber all SECTIONS consecutively.
(Reference is to ESB 136 as printed February 15, 2002.)

Representative Smith V